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IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION II

IN THE MATTER OF OTTOLENE
EAKES, DECEASED:

OTTO BORDEN,

Appellant,

vs.

SAMANTHA MOONEY,

Appellee.

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COURT OF CIVIL APPEALS
STATE OF OKLAHOMA

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SELDEN JONES
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Case No. 122,195

APPEAL FROM THE DISTRICT COURT OF
OKLAHOMA COUNTY, OKLAHOMA

HONORABLE MICHELLE C. HARRINGTON, SPECIAL JUDGE

AFFIRMED

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For Appellant

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For Appellee

OPINION BY GREGORY C. BLACKWELL, JUDGE:

The appellant, Otto Borden, appeals the court's order finding that the appellee, Samantha Mooney, was an heir of the deceased, Ottolene Eakes. Upon review, we find that Samantha sufficiently proved that she is an heir pursuant to 84 O.S. § 215.

BACKGROUND

Ottolene Eakes died on April 10, 2023. Ottolene and her predeceased husband, John Eakes, had two children, Joy and Johnny Lee, both of whom also predeceased Ottolene. Joy married David Michael Kordeliski, and they had a son named David Michael Kordeliski, II, who went by and will be referred to herein as Michael. Tisha Conway had a daughter, Samantha Mooney (formerly Conway), whom Michael and Tisha raised together as their daughter. The question presented in this case is whether or not Samantha is Michael's daughter, and thus an heir of Ottolene.

Ottolene's brother, Otto Borden, filed a petition for letters of administration, appointment of personal representative, and determination of heirs on May 26, 2023. Otto attached an exhibit to the petition, which listed Joy and Michael as predeceased. Samantha Mooney was listed as one of Michael's "possible children." R. 3.

On February 22, 2024, Samantha filed a motion asking the court to determine that she is an heir of Ottolene. Otto filed an objection, alleging that Samantha could not prove that Michael was her father. On March 26, 2024, the court held a hearing and subsequently issued an order finding that Samantha was Michael's biological child, thus making her an heir of Ottolene. From this order, Otto appeals.¹

¹ The appeal was assigned to these chambers on November 14, 2025.

STANDARD OF REVIEW

“Probate proceedings are of equitable cognizance.” *Matter of Est. of Fulks*, 2020 OK 94, ¶ 9, 477 P.3d 1143, 1147. “We presume that the trial court’s decision is legally correct and we will not disturb the trial court’s decision unless it is found to be clearly contrary to the weight of the evidence or to some governing principle of law.” *Id.* (internal quotations and footnotes omitted).

ANALYSIS

Otto alleges that the trial court erred in determining that Samantha Mooney is an heir of Ottolene. Because Michael and Tisha never married and Michael was not listed as the father on Samantha’s birth certificate, the relevant statute to determine whether Samantha is an heir is 84 O.S. § 215. It reads as follows:

For inheritance purposes, a child born out of wedlock stands in the same relation to his mother and her kindred, and she and her kindred to the child, as if that child had been born in wedlock. For like purposes, every such child stands in identical relation to his father and his kindred, and the latter and his kindred to the child, whenever: (a) *the father, in writing, signed in the presence of a competent witness acknowledges himself to be the father of the child*, (b) the father and mother intermarried subsequent to the child’s birth, and the father, after such marriage, acknowledged the child as his own or adopted him into his family, (c) *the father publicly acknowledged such child as his own, receiving it as such*, with the consent of his wife, if he is married, *into his family and otherwise treating it as if it were a child born in wedlock*, or (d) the father was judicially determined to be such in a paternity proceeding before a court of competent jurisdiction.

84 O.S. § 215. (emphasis supplied). Here, the trial court found that Samantha satisfied the requirements of both subsection (a) and (c). Upon review, we agree.

At the hearing, Samantha entered a copy of her Certificate of Degree of Indian Blood into evidence. Tr. (March 26, 2024), 22. The certificate was issued by the United States Department of the Interior, Bureau of Indian Affairs. Mooney's Exhibit 23. The certificate lists David Michael Kordeliski, II, as her father, Joy Lanell Eakes as her paternal grandmother, and Ottolene Borden as her paternal great-grandmother. *Id.* Additionally, the verification section of the document reads: "Paternity affidavit completed by Tisha M. Conway and David M Kordeliski, II states that they are the natural and biological parents of Samantha Marie Conway." *Id.* Tisha specifically testified that she and Michael signed the affidavits which confirmed that she was Samantha's biological mother and he was the biological father. Tr. (Aug. 6, 2024), pg. 22. Although the affidavits themselves were not entered into evidence, we find that the certificate sufficiently establishes that Michael signed a document, witnessed by Tisha and presumably a member or members of the BIA, acknowledging that he was Samantha's father. Indeed, it follows that if Samantha had not sufficiently established Michael's paternity, she would not have been issued a Certificate of Degree of Indian Blood because her Choctaw heritage is only on her father's side.

Otto contends on appeal, however, that Samantha's failure to present an acknowledgment of paternity signed by Michael is fatal to her claim. We disagree.

As support for his position, Otto cites *Matter of Estate of Downing*, 2021 OK 17, 489 P.3d 9, which involved a dispute over the disposition of the remains of the decedent between his alleged common law wife and his children. The Court noted:

On the issue of which party should control Decedent's remains, Movants presented testimony that detailed the Decedent's purchase of a burial plot and his alleged desire to be buried. Testimonial evidence consisted solely of general statements describing Decedent's opposition to cremation, his purchase of a headstone and burial plot more than fifty (50) years before his death, and alleged statements by the Decedent showing his desire to be buried. Furthermore, *Movants claimed that a deed and contract supporting Decedent's purchase of a burial plot was available, but such documentation was never offered as evidence.*

Id. ¶ 6 (emphasis supplied). The Court then held that when a written document is material to support the issues in a case, the original writing itself is the best evidence to prove the content of the document pursuant to 12 O.S. § 3002. *Id.* ¶ 18. Ultimately, the Court found that copies of the contracts and deed directly at issue in that case were *available*, but they were never *offered as evidence*. *Id.*

Here, it does not appear that Otto takes issue with the authenticity of the copy of the Certificate of Degree of Indian Blood that was offered and admitted into evidence.² Indeed, a copy is admissible in this case pursuant to 12 O.S. § 3003. However, it appears Otto contends that *Downing*, the best evidence rule, and 84 O.S. § 215 require the affidavits or copies of the affidavits themselves to be admitted into evidence. We note first that 84 O.S. § 215 only requires that the acknowledgement of paternity be in writing and signed in the presence of a competent witness. Although it is unclear from the record why the affidavits were not produced, there was witness testimony that both Tisha and Michael went to

² Otto does, however, write in his brief that "obviously, the certificate itself presents only hearsay evidence concerning an unproven assertion that an affidavit was presented." He does not further expound upon this hearsay argument, and we note that he did not make a hearsay or authenticity-based objection below. This Court has consistently held that issues not raised below will not be considered for the first time on appeal. *Jones v. Alpine Inv., Inc.*, 1987 OK 113, ¶ 11, 764 P.2d 513, 515.

the Bureau of Indian Affairs and signed the affidavits acknowledging their parentage. The written verification on the certificate affirms that Michael acknowledged that he was Samantha's father. As stated above, the BIA would not have issued the certificate proving her Choctaw ancestry if Michael was not her father. The certificate shows that Michael, Joy, and Ottolene, all family members on Michael's side, provided the basis for Samantha's Choctaw lineage. Because Samantha presented a copy of the certificate, we find that the appellant's citation to *Downing* in this context is misguided.

We also find that even if the certificate is insufficient to show that Michael established parentage under subsection (a) of § 215, Samantha presented a plethora of evidence that Michael publicly acknowledged her as his own child pursuant to subsection (c) of § 215. For example, Harry Kordeliski, Michael's uncle testified that he knew Michael was Samantha's father. Tr. (Aug. 6, 2024), pg. 10. When asked how he would describe Michael's relationship with Samantha, Harry answered, "He was a doting dad and they just worshipped each other." *Id.* at 13. During his testimony, he also testified regarding several family photographs which contained Samantha and her father together. Harry confirmed that Samantha had always been accepted as Michael's daughter by all of the family. *Id.* at 14. Further, Tisha also testified that Michael was Samantha's father. *Id.* at 16.

Samantha testified³ that she was appointed as the administrator of her grandfather, David Michael Kordeliski, II's, estate and admitted an exhibit showing the same into evidence. *Id.* at 31. On cross-examination, Samantha was asked if she was determined to be an heir in her grandfather's probate case, and Samantha indicated that she was. *Id.* at 40. It follows then that there has already been a determination by a court that Samantha is Michael's daughter, otherwise she would not have been an heir to her grandfather's estate. Further, Samantha admitted her father's obituary into evidence, which states that Michael had three daughters: "Samatha, Hope, and Holly Conway." Mooney Exhibit 30. Samantha also admitted Ottolene's obituary into evidence, which states that Ottolene was survived by her great-granddaughter, Samantha, and Samantha's children, who were her great-great-grandsons. Mooney Exhibit 31.

Ultimately, we find that Samantha presented ample evidence under subsection (c) of § 215. The testimony of family members as well as the photographs entered into evidence suggest that everyone, with the possible exception of Otto,⁴ knew Samantha to be Michael's daughter and did not

³ Although not relevant to the question of whether Michael specifically held Samantha out to be his daughter, Samantha and several other witnesses testified about various family photographs of Samantha and Ottolene. Tisha testified regarding a photo of herself and Ottolene waiting together at the hospital for Samantha to be born. *Id.* at 19. Samantha testified regarding several photographs taken of Ottolene at Samantha's wedding. *Id.* at 29. The family photographs reflect that Ottolene and Samantha were very much involved in each other's lives at varying stages. Samantha also testified that she had the keys to Ottolene's safety deposit box and was named Ottolene's power of attorney for a period of time. *Id.* at 37-38.

⁴ In his brief testimony, Otto did not directly state whether or not he believed Samantha was Michael's daughter. See Tr. (March 26, 2024) pgs. 48-50. When asked whether he believed Ottolene "consider[ed] Samantha to be her granddaughter," he responded, "I have no idea" *Id.* at 50.

question whether she was a part of their family. Accordingly, we cannot find the trial court's decision to be clearly contrary to the weight of the evidence or any governing principle of law and thereby affirm.

AFFIRMED.

FISCHER, J., concurs, and WISEMAN, P.J., concurs in result.

December 19, 2025